

DECISION

Dispute Codes: OPR, MNR and FF

Introduction

This application was brought by the landlord on January 11, 2011 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served on December 8, 2011 by registered mail, deemed to be received on December 13, 2011. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on January 11, 2011, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy began on January 1, 2010. Rent is \$945 per month and the landlord holds a security deposit of \$437.50..

During the hearing, the landlord gave evidence that the Notice to End Tenancy of had been served when the tenant had failed to pay rent for December 2010.

In the interim, the December rent remains unpaid, the tenant has not paid rent for January 2011, and he has not given notice vacate or returned the keys.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due. Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not make application to dispute the notice and I accept the evidence of the landlord that he did not pay the full rent within five days of receiving the notice.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date under the Notice to End Tenancy which was December 13, 2010.

Therefore, I find that the landlord is entitled to an Order of Possession to take effect January 31, 2011 as requested. .

I further find that including rent and recovery of the filing fee for this proceeding, the tenant owes the landlord an amount calculated as follows:

Rent for December 2010	\$ 945.00
Rent for January 2011	945.00
Filing fee	50.00
TOTAL	\$1,940.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on January 31, 2011.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$1,940.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

January 26, 2011